

BOARD OF APPEALS CASE NO. 5266

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BEFORE THE

APPLICANTS: Mr. & Mrs. Craig Kogut

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ZONING HEARING EXAMINER

**REQUEST: Variance to allow an addition within
the required rear yard setback; 1102 Malkus Way,
Bel Air**

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 6/26/02 & 7/3/02

HEARING DATE: July 29, 2002

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Record: 6/28/02 & 7/5/02

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ZONING HEARING EXAMINER'S DECISION

The Applicants, Mr. & Mrs. Craig Kogut, are requesting a variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to construct an addition within the required forty (40) foot rear yard setback (30 feet proposed) in an R2/Urban Residential District.

The subject parcel is located at 1102 Malkus Way within the Oak Ridge subdivision, and is more particularly identified on tax map 49, Grid 1C, Parcel 862, Lot 111. The parcel consists of 0.258 acres, is zoned R2/Urban Residential and is entirely within the Third Election District.

Mr. Jeffrey Hoilman appeared on behalf of the Applicants. Mr. Hoilman is the contractor representative who has been engaged to construct the addition on the Applicant's home. There is an existing 20 foot by 12 foot deck located to the rear of the home. The Applicants propose to construct a family room addition on the existing deck with the same dimensions. The room will have a cathedral ceiling and will match the existing color of the home and roof. The room will be used rear round as a family room. The house is constructed on a corner lot and is subject to two front yard setbacks. Because of the lot configuration, there is limited buildable area to the rear of the home. The proposed structure will be no closer to the property line than the existing deck is today. The witness did not believe any adverse impacts would result from construction of this addition. He stated that there were similar additions found within this subdivision and throughout Harford County and he was unaware of any adverse impacts associated with any of those additions.

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The Department of Planning and Zoning concluded in its July 3, 2002 Staff Report that the corner lot configuration of the parcel limits the buildable area of this lot more than non-corner lots located elsewhere in the subdivision. Additionally, the Applicant is not proposing to increase the footprint of what is now an existing and permitted deck. The Department concluded that approval of the request would have no adverse impacts on adjacent properties or the Harford County Code.

CONCLUSION:

The Applicants are requesting a variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to construct an addition within the required forty (40) foot rear yard setback (30 feet proposed) in an R2/Urban Residential District.

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”

The Hearing Examiner agrees with the witness and the Department of Planning and Zoning that the corner lot configuration reduces the buildable lot area and makes this property unique. The Applicant proposes to create additional living space by replacing a deck with an enclosed family room allowing year round use. The Hearing Examiner concludes further that this addition will have no adverse impacts to adjoining or neighboring properties or the purposes and intent of the Code.

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The Hearing Examiner recommends approval of the request, subject to the Applicant obtaining any and all necessary permits and inspections.

Date AUGUST 13, 2002

**William F. Casey
Zoning Hearing Examiner**